

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

AFFYMETRIX, INC., :
: Plaintiff, :
: :
v. : : Civil Action No. 04-901 JJF
: :
ILLUMINA, INC., : :
: : Defendant. :
:

ORDER

WHEREAS, on February 8, 2007, the Court held a pretrial conference at which the parties discussed the number of claims to be presented at the infringement phase of the trial scheduled to commence May 5, 2007;

WHEREAS, as evidenced in letters submitted to the Court (D.I. 375, 377, 380), the parties were unable to reach an agreement on the number of claims;

NOW THEREFORE, IT IS HEREBY ORDERED that Plaintiff is limited to asserting twelve (12) claims total for the five patents in suit; however, claim 53 of U.S. Patent No. 6,646,243 may not be one of the twelve claims asserted.

February 26, 2007



UNITED STATES DISTRICT JUDGE